



Town of Aurora

Closed Session Council Report No. PDS19-055

Subject: Potential Property Acquisition – Library Square
Prepared by: Anthony Ierullo, Manager of Policy Planning and Economic Development
Department: Planning and Development Services
Date: June 4, 2019

Recommendation

1. That Report No. PDS19-055 be received; and,
2. THAT Council provide direction.

Executive Summary

The purpose of this report is to seek Council direction on the potential acquisition of 15157, 15165, and 15171 Yonge Street that is currently owned by 250213 Holdings Limited (Aristotelis Spasopoulos, Theodoros Spasopoulos and Vasilios Spasopoulos collectively, the “Vendor”).

- Town has completed an updated Appraisal for the subject property
- Acquisition terms are based on a previous Agreement of Purchase and Sale
- Purchase Price exceeds the appraised value
- Current design for Library Square does not incorporate the majority of the property
- Acquisition of the property requires management of commercial assets
- Funding for the proposed acquisition has not been included in existing budgets

Background

Staff have previously presented several closed session reports outlining an opportunity for the Town to purchase 15157, 15165, and 15171 Yonge Street (collectively, the “Property”). The sites that make up the Property are contiguous, directly north of the Aurora Public Library ending at Mosley Street and are:

- zoned PD1 (permits a mix of commercial and residential uses);
- currently occupied by a variety commercial and office tenants;
- approximately 0.76 acres in area;

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- contains buildings with approximately 24,613 square feet of leased commercial and office space; and
- owned by the Vendor.

At the March 19, 2019 Council meeting, Council provided the following closed session direction to staff on the matter:

1. That Report No. PDS19-024 be received; and,
2. That staff be authorized to initiate discussions with the property owners for the potential purchase or lease of the properties as outlined in this report; and,
3. That Council authorize funding not to exceed \$20,000 from the Proceeds of Sale of Lands Reserve to complete preliminary investigations related to the acquisition of lands as outlined in this report.

As directed by Council, staff have been engaged in negotiations with the Vendor. The current report is being presented to seek Council direction on the parameters of an agreement with the property owner.

COMMENTS

The Town recently met with the owner to discuss the parameters of an Offer to Purchase for the Property. The details of the proposed Offer as well as staff's comments on the proposed acquisition are outlined below.

Town has completed an updated Appraisal for the subject property

The Town completed a prior appraisal on May 13, 2015 that valued the Property in the range of \$6.8 million and \$7.1 million. This appraisal was based on the Direct Comparison Approach, which estimates value based on what comparable properties have recently sold for in the market. Staff also ordered an appraisal on June 29, 2015 using the Income Approach that valued the Property at \$5.2 million. The income approach assigns value to a property based on the net income currently generated by the asset.

The Town's most recent appraisal, completed on May 2, 2019, valued the property at \$5 million. This appraisal applied both the income and direct comparison approach to determine the appraised value. This appraisal did not account for recent transactions on the west side of Yonge Street (from Wellington Street to the TC Burger site). These transactions were considered part of a broader consolidation of assets that the

appraiser characterized as above the current market value. The vendor asserts that the same individual has offered over \$8 million for the subject property.

All of the valuations do not consider onsite issues such as soil contamination, which have been identified in previous environmental analysis. The extent and implications of the contamination are not fully known and could impact the value of the property.

Acquisition terms are based on a previous Agreement of Purchase and Sale

Staff are proposing that the Town generally structure the Agreement on the basis of the previously negotiated terms for purchase that were conditionally approved by the vendor and Town in 2015. These terms will allow the Town to complete due diligence activities on the property and resolve potential considerations prior to acquisition. The highlights of the potential Agreement are summarized below:

- Sale Price of \$7,500,000.00;
- Deposit of \$250,000.00 payable to the Vendor's solicitor in trust within five business days after acceptance of the Offer; the terms of the Offer identify the Deposit as the full and complete damages that the Vendor would suffer should the Town fail to complete the transaction due to a failure in performance of the Town's obligations under the Offer (i.e., if the Town waives or fulfills all the conditions in the Offer but still fails to complete the transaction, the Town's losses are contractually limited to the Deposit if the Vendor retains the Deposit);
- Closing Date of October 31, 2019 or such date as approved by the CAO and agreed to with the Vendor to advance the transaction in a reasonable and timely fashion;
- Irrevocable Date of June 14, 2019 or such date as approved by the CAO and agreed to with the Vendor to advance the transaction in a reasonable and timely fashion;
- conditional on the Town completing all applicable municipal procedures including approval of budgets and plans related to the purchase and use of the Property, prior to September 30, 2019;
- conditional on the Town satisfying itself as to the site condition data delivered by the Vendor prior to July 1, 2019 or such date as approved by the CAO and agreed to with the Vendor to advance the transaction in a reasonable and timely fashion;

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- conditional on the Town completing a satisfactory Environmental Site Assessment, geotechnical analysis and building condition assessment for all structures on the Property prior to August 30, 2019 or such date as approved by the CAO and agreed to with the Vendor to advance the transaction in a reasonable and timely fashion;
- standard Vendor's representations and warranties, including clauses that: (a) if the Vendor enters into any agreement, lease or otherwise, from the date of acceptance of the Offer until the date upon which all conditions are satisfied, which would affect the Property and cannot be cancelled on 30 days' notice or less, the Vendor shall notify the Town of same within 2 business days of entering into such agreement, lease or otherwise, and if the Town does not approve of the terms and conditions of such agreement, lease or otherwise, then the Town shall be entitled, in its sole and unfettered discretion, to declare the Offer to be null and void, with the Deposit and any interest earned thereon returned to the Town in full; and (b) except for the existing leases, the Vendor shall not, from and after the date upon which all conditions of the Offer are satisfied, enter into any agreement, lease or otherwise, which would affect the Property and cannot be cancelled on thirty (30) days' notice or less, without the prior written consent of the Purchaser;
- an assignment clause that allows the Town to assign all or part of the obligations for the Property to a third party if appropriate; and,
- standard clause that HST is not included in the Sale Price and may be payable by the Town to the Canada Revenue Agency upon completion of the transaction;

Other general legal terms and conditions may need to be clarified with the assistance of the Town Solicitor based on the language contained in the Town's precedent Offer. The transaction has been submitted without the assistance of a real estate professional. As a result, the Vendor will not be required to pay the customary real estate commission under the attached Offer. This fee is estimated at approximately \$200,000.

Purchase Price exceeds the appraised value

Staff would generally recommend an adjustment to the Sale Price to better reflect the appraised value and potential clean up costs. As previously mentioned, the Town's appraiser believes that the property is valued in the \$5 million range. This is based on the existing leases, building age and expected condition, overall Property size/area and location and comparable sales. Previous discussions with the Vendor suggest that they believe that the value of the Property exceeds the value identified by the Town's

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appraisals. Staff do not believe that the vendor will accept a purchase price that is within the appraised value range.

Current design for Library Square does not incorporate the majority of the property

The proposed acquisition has been identified as a potential component in the development of Library Square. The block has also been identified as a key location for future mixed use redevelopment that could contribute to the broader Library Square vision. However, the current design for Library Square does not incorporate the majority of the property.

Acquisition of the Property Requires Management of Commercial Assets

The proposed acquisition includes nearly 25,000 square feet of commercial/office space that would be acquired by the Town. The acquisition of the Property in its current form would require the Town to manage a series of commercial leases with numerous local businesses.

The Town has not historically acquired commercial/office assets for the purpose of offering market leases or becoming a commercial landlord. Moreover, the management of commercial real estate is not generally considered a core municipal service and the Town is not currently staffed or structured to manage this function effectively. Further, the potential eviction or non-renewal of existing leases may come at an additional expense to the Town and may impact the existing tenants.

In the event that Council is amenable to purchasing the Property, it is recommended that a further report be brought back to Council well before closing to consider potential solutions regarding management of the commercial assets, with implementation of a solution prior to the closing date.

Next Steps

In the event that Council decides to proceed with the purchase as described above, the following next steps are recommended:

1. Authorize the Mayor and Town Clerk to execute an Agreement of Purchase and Sale, in accordance with the terms noted in this report, including any and all documents and ancillary agreements required to give effect to same.
2. Identify and approve a funding source for the Deposit portion of the Offer.

3. Approve a budget and identify a funding source to complete site investigations on the Property. This would include a Phase 1 and Phase 2 Environmental Site Assessment, geotechnical analysis and building condition assessment for all structures on the Property. These works collectively are estimated to cost \$80,000.
4. Direct staff to report back to Council to consider potential solutions regarding managing the commercial assets, which solutions may include engaging private sector partners and/or investigate the utilization of the newly established Economic Development Corporation to hold the commercial assets and lead the redevelopment.
5. Identify and approve a funding source for the balance of the Sale Price for the completion of the transaction.

The above list of next steps is not exhaustive, and additional requirements may need to be fulfilled depending on Council's deliberations and direction.

Advisory Committee Review

None

Legal Considerations

If staff is directed to pursue an agreement of purchase and sale for the Property, Legal Services will provide the Town's standard agreement based on the terms and conditions outlined in this report and other technical provisions that are normally part of the Town's real estate agreements. The agreement would be presented to the Vendor in a form of an executed offer, which will be open to acceptance by the Vendor. The Vendor may reject such an offer and staff may be able to negotiate some minor adjustments that fall within the scope of the terms and conditions outlined in this report. If an agreement is finalized, it would be conditional on the terms outlined above.

Financial Implications

Funding for the proposed acquisition has not been included in existing budgets

If the Town were to acquire the complete suite of properties described above, the total acquisition cost is expected to be approximately \$7.9 million including site investigation costs, unrecoverable HST, and land transfer tax. However, should the Town only acquire a portion of these identified properties, the anticipated acquisition cost could be

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consequently less. As of the date of this report, no funding has been approved for this proposed acquisition other than the initial \$20,000 that was approved for preliminary investigations into this possible purchase.

A funding strategy for this noted acquisition cost is still to be finalized, however it could include funding from one or a combination of the following possible sources:

- Debt whose carrying costs could be fully or partially offset through the net lease revenues generated from these properties. The estimated lease revenue could offset approximately \$4,000,000 of debt;
- Hydro investment reserve; and,
- Library development charges may possibly be accessed if these properties are to be utilized in support of the delivery of library services.

In regards to the on-going operating costs of these properties, based upon the financial details received to date from the owners, their existing lease revenues are sufficient in covering their day to day operating costs. As noted above, if the Town were to purchase and continue to operate these assets as commercial properties, the Town would need to acquire sufficient commercial property management capacity.

In addition, no requirements relating to the repair and replacement of these said properties have been included in the Town's ten year capital plan.

Communications Considerations

None.

Link to Strategic Plan

The proposed Offer to Sell and any related planned development supports the Strategic Plan goal of ***Enabling a Creative, Diverse and Resilient Economy*** through its accomplishment in satisfying requirements in the following key objective within this goal statement: **promoting economic opportunities that facilitate the growth of Aurora as a desirable place to do business.**

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Alternative to the Recommendation

Council may decide not to proceed with the acquisition of the property.

Conclusions

On March 19, 2019, Council directed staff to negotiate the purchase of 15157, 15165, and 15171 Yonge Street for Council consideration. As directed by Council, the Town has been engaged in ongoing negotiations with the Vendor. Staff are now seeking Council direction on submitting an Offer and related matters that will arise from the potential purchase of the Property.

Attachments

Attachment 1 – Property Map

Previous Reports

Confidential Closed Session Council Report No. PDS19-024, dated March, 19, 2019.

Pre-submission Review

Chief Administrative Officer, Director of Planning and Development Services and Town Solicitor.

Departmental Approval



**David Waters, MCIP, RPP, PLE
Director
Planning and Development Services**

Approved for Agenda

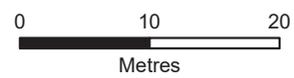


**Doug Nadorozny
Chief Administrative Officer**



**ATTACHMENT #1
PROPERTY MAP
PDS19-55**

 SUBJECT LANDS



Map created by the Town of Aurora Planning & Development Services Department, May 30th, 2019. Base data provided by York Region and Aurora - GIS. Air Photos taken Spring 2018, © First Base Solutions Inc., 2018 Orthophotography. This is not a legal survey.